IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY EIGHTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

HON'BLE SRI JUSTICE B.PRAKASH RAO

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W.P. Nos. 17326 and 13097 of 2004

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WRIT PETITION NO : 17326 of 2004

Between:

D.Gopal Reddy, S/o Chinnaiah, R/o Krishnapuram Village, Veldurthi Mandal, Kurnool District

..... PETITIONER

AND

1 The Deputy Director, Mines and Geology, Kurnool, Kurnool District
2 The District Collector, Kurnool
3 The Mandal Revenue Officer, Veldurthi Mandal, Kurnool District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the second respondent in issuing proceedings RC.CC.No.18/2004 dated 25-1-2004 cancelling "No Objection Certificate (NOC)" issued by the third respondent for quarry lease, without issuing any notice or without affording an opportunity of being heard as bad, arbitrary, illegal and violative of principles of natural justice and pass such other and further order or orders,

Counsel for the Petitioner: MR.C.DAMODAR REDDY

Counsel for the Respondents : GP FOR MINES AND GEOLOGY

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WRIT PETITION NO : 13097 of 2004

Between:

D.Gopal Reddy, s/o Chinnaiah, r/o Krishnapuram Village, Veldurthi Mandal, Kurnool District.

..... PETITIONER

AND

1 The Director, Mines and Geology, Andhra Pradesh at Hyderabad.
2 The Deputy Director, Mines and Geology, Kurnool, Kurnool District.
3 The Assistant Director, Mines and Geology, Kurnool.
4 The District Collector, Kurnool.
5 The Mandal Revenue Officer, Veldurthi Mandal, Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction, more particularly one in the nature of writ of mandamus, declaring the action of the second respondent in passing order in proceedings No.215/M4/2003 dated 21-7-2004 cancelling the lease granted to the petitioner on 30-12-2003, as bad, arbitrary, illegal and violative of principles of natural justice

Counsel for the Petitioner: MR.C.DAMODAR REDDY

Counsel for the Respondents : GP FOR MINES AND GEOLOGY

The Court made the following :

COMMON ORDER:

Heard both sides and at their request both the writ petitions have been taken up for disposal since they are connected to each other.

The petitioner in WP No. 13097 of 2004, who is a leaseholder, seeks to assail the impugned order dated 21-7-2004 cancelling the lease granted in his favour by the second respondent. Subsequently, challenging the orders passed on 25.1.2004 cancelling the 'No Objection Certificate' issued in his favour in pursuance of the lease, which was already granted, he filed the W.P.No. 17326 of 2004.

Learned counsel for the petitioner submits that it is only in pursuance of the 'No Objection Certificate' granted earlier after proper enquiry, lease was granted and now the same is sought to be cancelled without giving any notice or intimation and without conducting any enquiry. Therefore, the said orders are totally opposed to the principles of natural justice. Consequently, subsequent orders cancelling the lease also do not hold good.

Having considered the submissions made on either side and on perusal of the material, it is seen that admittedly the impugned order dated 25-1-2004 passed by the 2nd respondent in WP No.17326 of 2004 is one without any notice and no opportunity is being provided to the petitioner. There is no dispute to the fact that the petitioner was given 'No Objection Certificate' earlier by the concerned Mandal Revenue Officer after verification, which is now sought to be cancelled. No such

orders can be passed without giving any proper opportunity to the petitioner, especially, where his substantive rights are being affected. In the circumstances, it is to be held that the impugned order dt.25-1-2004 do not hold good and the same is liable to be set aside. Consequently the orders canceling the lease dt.30.12.2003 also do not hold good and accordingly the said order dt.21-7-2004 is also liable to be set aside.

In the result both the writ petitions are allowed and both the impugned orders are set aside. It shall however be open for the concerned authorities to take action in accordance with law after giving notice and opportunity to the petitioner.

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B. PRAKASH RAO, J

Dt 28-10-2004

KVRK

To

1 The Director, Mines and Geology, Andhra Pradesh at Hyderabad.
2 The Deputy Director, Mines and Geology, Kurnool, Kurnool District.
3 The Assistant Director, Mines and Geology, Kurnool.
4 The District Collector, Kurnool.
5 The Mandal Revenue Officer, Veldurthi Mandal, Kurnool District.

6. Two CCs to GP for Mines and Geology, High Court of AP, Hyderabad (OUT)

HON'BLE SRI JUSTICE B. PRAKASH RAO

28th OCTOBER 2004